

DEPARTMENT OF HEALTH SERVICES

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SACRAMENTO, CA 95814

June 9, 1986



TO: All County Welfare Directors
County Administrative Officers

Letter No.: 86- 33

Reference: ACWD Letter 85-77

This letter is to provide you with clarification on implementation of the principal place of residence regulations. Following are the most often asked questions and the answers:

1. Are new applicants allowed 20 days to return the Principal Residence (PR) questionnaire?

ANSWER

No. The 20 day requirement is for continuing cases only. The completed PR questionnaire must be submitted prior to the eligibility determination. Therefore, at intake, the PR questionnaire should be completed and returned at the same time as all other required forms.

2. Will the PR questionnaire be a form available from the DHS Warehouse?

ANSWER

No. The PR questionnaire is a temporary form and will only be used until all appropriate forms are revised to include the information.

3. Is the PR questionnaire required for beneficiaries who currently live in their principal residence?

ANSWER

No. This form is only required for new applicants or continuing beneficiaries who have an ownership interest in real or personal property in which they do not currently reside and which was previously used as their principal residence.

4. If the principal residence is located in another state, the beneficiary does not intend to return to it and a bona fide effort is being made to sell the property, is the client considered a resident of California?

ANSWER

Yes. Section 50320(b) specifies two conditions for establishing California residence. One condition is that physical presence with no intent of leaving will establish residency, unless the applicant is maintaining a home outside the state. In the above situation, the beneficiary is not maintaining a home since it is for sale and there is no stated intent to return to it. The beneficiary is, therefore, a California resident.

5. Can an applicant's Medi-Cal eligibility be established pending receipt of the PR listing agreement if the former home is not otherwise exempt?

ANSWER

No. Title 22, Section 50167(a)(9) requires the applicant/beneficiary to provide evidence that the property is listed for sale at its fair market value prior to approval of eligibility.

6. If a beneficiary intends to return to his/her home, is the county of responsibility the county in which the home is located or the county in which the beneficiary is physically present?

ANSWER

The county of responsibility is the county in which the home is located.

7. Can we accept the responsible relative's written statement of intent to return home for a comatose beneficiary who realistically cannot return to the former PR?

ANSWER

Yes. Statements of intent to return or allegations of dependency are acceptable from individuals with authority to act on behalf of the beneficiary in situations where the individual is incapable of providing such information.

8. How is disability defined in order to qualify for the dependent relative PR exemption? Can a beneficiary's statement that "my daughter has high blood pressure" be accepted?

ANSWER

No. The PR exemption for a disabled child living in the beneficiary's former home must meet the provisions of Title 22, CAC, Sections 50219 or 50223. A medical determination of disability or blindness must be provided and the case file must include appropriate documentation. If such a determination isn't readily available, the beneficiary's statement of dependency is an alternative.

For Medi-Cal program purposes, a disabled or blind child of any age is considered a dependent relative. For clarification purposes, a statement to that effect was added to Section 50425(a)(4) during the post-hearing review period of the PR regulation package.

9. For other than disability, what type of information must be contained in the written statement of dependency in order to exempt a beneficiary's former PR?

ANSWER

Dependency may be of any type (medical, financial, emotional, etc.). For other than dependency based on disability, accept the beneficiary's or dependent relative's written and signed allegation without further development unless there is reason to question it (e.g., the case file indicates no living relatives).

10. What are examples of legal obstacles that would prevent the sale of a beneficiary's former principal residence? What evidence of attempts to overcome the obstacles are required?

ANSWER

Legal obstacles include any reason that prevents the beneficiary from liquidating the property or his share or interest in the property, such as a clouded title, an incompetent applicant/beneficiary who does not have a legal guardian, other persons on the title who refuse to sell or any other problem with conveying title. The applicant/beneficiary must submit written statements from the other parties that they refuse to cooperate. If the other parties refuse to provide statements, examples of acceptable evidence are:

- a. written statements from realtors, or
- b. sworn statement of applicant/beneficiary, or

- c. copies of registered/certified letters sent from the applicant/beneficiary to other party(ies) requesting reduction in price, etc.
- d. in the case of an incompetent applicant/beneficiary, a statement from an individual or organization having knowledge of the applicant's/beneficiary's status. In this case, the county would make a referral to the Public Guardian or conservator.

The beneficiary must make a continuing effort to overcome such obstacles in order for the property to remain exempt. Counties should flag these cases and check progress quarterly.

11. What is the definition of a "qualified real estate appraiser"?

ANSWER

A qualified real estate appraiser is a person employed as a real estate appraiser for a real estate company, a bank, a title company or an appraisal company.

12. Is it necessary for the sibling/child over 21 years of age to have contributed to the LTC beneficiary's basic needs in order to qualify for the principal residence exemption?

ANSWER

No.

13. If a lien is placed on the property and the LTC beneficiary is discharged but doesn't return home, does the lien remain on the property? Do we look again at intent to return in order to exempt the property?

ANSWER

A lien is placed on a beneficiary's former residence only when the beneficiary does not intend to return, none of the other exemptions apply and the property was listed for sale in order for the property to remain exempt. The beneficiary has 10 days to notify the county when circumstances change such as intention to return home. Therefore, the lien is not dissolved and the county does not need to check intent in order to exempt the property, but would need to check progress of sale quarterly.

14. If a lien is placed against a LTC applicant's former PR, when do the charges against the lien begin?

ANSWER

The charges against the lien can begin no earlier than the date of application. For continuing cases, the charges begin on the date the MC 239 W or MC 239 X NOA is sent.

15. If the property were considered other real property (ORP) and would not make the client ineligible, do they have an option to list/lien the property?

ANSWER

If (1) a beneficiary does not intend to return to the former home, (2) none of the other exemptions apply (such as spouse, child under 21 or dependent relative lives in the beneficiary's former home), and (3) the beneficiary refuses to list the former home for sale, then the former home is considered other real property. At that time the requirements of Title 22, CAC, Sections 50427 and 50416 would apply to the beneficiary's former home.

16. When is completion of form DHS Change of Status-Liens necessary?

ANSWER

DHS 7013 must be completed and submitted to DHS Recovery Branch each time there is a change to the information provided on the DHS 7014. For example: Medi-Cal ID number change, beneficiary is discharged from LTC and returns home, beneficiary discontinuance or death, the beneficiary's intent to return to the former home changes, etc.

17. An applicant or beneficiary is informed that the house must be listed for sale. Can the family buy the home before it is listed with a real estate broker?

ANSWER

Yes. However the family must pay fair market value for the property.

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County Administrative Officers
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I hope the information provided is helpful to you. If you have any questions, please contact Tim Lockwood of my staff at (916) 323-4129.

Sincerely,

Original signed by

Gary Pettigrew, for
Doris Z. Soderberg, Chief
Medi-Cal Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: February 9, 1987